

A seller need not verify that the tangible personal property sold for resale was actually resold if the seller obtains a registration or resale number and proper Certificate of Resale, containing all information required in 86 Ill. Adm. Code 130.1405. See 86 Ill. Adm. Code 130. 1405 (This is a GIL.)

July 10, 2003

Dear Xxxxx:

This letter is in response to your letter dated April 7, 2003. The nature of your letter and information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200>.

In your letter you stated and made inquiry as follows:

AAA operates in the membership warehouse segment of specialty retailing, operating a chain of cash and carry membership warehouses in over thirty states and in various international markets. AAA's operations are based on the concept that offering very low prices on a limited selection of national brand products, over a wide range of merchandise categories, will produce rapid inventory turnover and high sales volume. AAA services both the retail and wholesale markets selling a variety of merchandise including food, candy, tobacco, sundries, appliances, electronics, tools, office supplies, furniture, automotive supplies, apparel, linens, jewelry, housewares, books, optical, prescription and over-the-counter medicines.

AAA is located in a number of states and is continuing to expand. If AAA purchases its inventory from a national manufacturer, it will be required to issue up to thirty-five resale certificates. Unless the multi-jurisdictional resale certificate is used, this would require thirty-five signatures for each vendor.

In an effort to simplify the process of issuing resale certificates, AAA created the attached packet. For those states that accept the multi-jurisdictional certificate we have listed the appropriate registration number on that form. For those states that require their form and accept no other format, we have included their form.

Based on our review of the State of Illinois resale certificate requirements, we believe that the attached AAA certificate would be acceptable to the State. The seller is listed on the first page of the packet. An original signature is found on the second page. All subsequent pages of the packet either contain the required information or make reference to the first or second page of the packet. We believe, taken as a whole, the packet should be acceptable to your state as a valid resale certificate.

We request that you review the packet and state in writing whether the packet is an acceptable resale certificate. Rephrased we would like to know that if your auditors were furnished this packet in the course of an audit of one of our vendors, will the packet be considered a valid resale certificate?

We are unable to provide you with the specific response you request in the context of a General Information Letter. Provided below is information that will help you to determine the acceptability of the proposed blanket resale certificate.

A seller of tangible personal property must determine at the time of the sale whether the sale to the purchaser will be for use or consumption or a sale for resale. If it is a sale for resale, the seller can accept a resale or registration number and Certificate of Resale from the purchaser as evidence that the purchase is a purchase for resale. See 86 Ill. Adm. Code 130.1401, enclosed for your reference. Under Section 2c of the Retailers' Occupation Tax Act, the failure to present an active registration or resale number and a Certificate of Resale to the seller creates a presumption that a sale is not a sale for resale. This presumption may be rebutted by other evidence. The seller, however, need not verify that the tangible personal property sold for resale was actually resold if he obtains a registration or resale number and proper Certificate of Resale, containing all information required in 86 Ill. Adm. Code 130.1405.

A Certificate of Resale is a statement signed by the purchaser certifying that the property purchased was purchased for the purpose of resale. In addition to the written statement of the purchaser, the Certificate of Resale must also contain the following:

- 1) The seller's name and address;
- 2) the purchaser's name and address;
- 3) a description of the items being purchased for resale;
- 4) purchaser's signature, or the signature of an authorized employee or agent of the purchaser, and date of signing; and
- 5) Registration Number with the Illinois Department of Revenue, Resale Number with the Department, or a Certification of Resale to Out-of-State Purchaser made by the out-of-state purchaser that he will sell only to purchasers located outside Illinois.

The Department will accept correct Certificates of Resale as prima facie proof that the sales covered are sales made for resale. See 86 Ill. Adm. Code 130.1405(b). Certificates of Resale may be made a part of the purchase orders signed by the purchaser.

The purchaser may provide a blanket Certificate of Resale to its seller if all of the purchases are for resale. Blanket Certificate of Resale are not required by statute to be renewed at specific intervals, however, blanket Certificates should be updated periodically, and no less frequently than every three years. See Section 130.1405(c).

The Blanket Certificate of Resale AAA proposes to provide to its sellers when making purchases for resale appears to contain all the information required in 86 Ill. Adm. Code 130.1405 to make it a proper Certificate of Resale.

I hope this information has been helpful. The Department of Revenue maintains a website, which can be accessed at www.state.il.us. If you have further questions related to the Illinois sales and use tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in item 1 through 8 of Section 1200.110(b). Such regulation may be obtained from our website mentioned above.

Sincerely,

Dana Deen Kinion
Associate Counsel

DDK:msk
Enc.